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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/374,041	08/13/1999	ROBERT M. NALLY	50246-068	3245
27975	7590	08/11/2005		
ALLEN, DYER, DOPPELT, MILBRATH & GILCHRIST P.A. 1401 CITRUS CENTER 255 SOUTH ORANGE AVENUE P.O. BOX 3791 ORLANDO, FL 32802-3791				
			EXAMINER CHAUHAN, ULKA J	
			ART UNIT 2671	PAPER NUMBER

DATE MAILED: 08/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/374,041 and 90/005471

Applicant(s)

NALLY ET AL.

Examiner

Ulka J. Chauhan

Art Unit

2671

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 5/23/02.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-48 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: PTO/SB/52

***Reissue Applications***

1. The reissue oath/declaration filed with this application is defective because it fails to identify at least one error that is relied upon to support the reissue application. See 37 CFR 1.175(a)(1) and MPEP § 1414. Applicant's statement "...claiming the invention imprecisely ..." does not satisfy this requirement (please see Form PTO/SB/52). All that is needed for the oath/declaration statement as to error is the identification of "at least one error" relied upon. In identifying the error, it is sufficient that the reissue oath/declaration identify a single word, phrase, or expression in the specification or in an original claim, and how it renders the original patent wholly or partly inoperative or invalid.
2. The reissue oath/declaration filed with this application is also defective (see 37 CFR 1.175 and MPEP § 1414) because it does not comply with all of the requirements of 37 CFR 1.63 (please see Form PTO/SB/52). For example: the residence, mailing address and citizenship of the inventors; statement acknowledging the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.
3. Claims 1-48 are rejected as being based upon a defective reissue declaration under 35 U.S.C. 251 as set forth above. See 37 CFR 1.175.

The nature of the defect(s) in the declaration is set forth in the discussion above in this Office action.

Receipt of an appropriate oath/declaration under 37 CFR 1.175(b)(1) will overcome this rejection under 35 U.S.C. 251.

*Specification*

4. The substitute specification filed 9/19/01 has not been entered because a substitute specification is not permitted in a reissue application or in a reexamination proceeding under 37 CFR 1.125(d). In order to accept a substitute specification, the reissue applicant must file a grantable petition under 37 CFR 1.183 for waiver of 37 CFR 1.125(d) and 37 CFR 1.173(a)(1). The examiner's request for the clean copy will generally serve as sufficient basis for granting the petition and should be referenced in Applicant's petition (See examiner's request for a clean copy of the specification with the Certificate of Corrections changes incorporated therein, made in Office Action mailed 8/31/01).
5. The substitute specification must reflect all of the changes, additions, or deletions that were made by a Certificate of Correction to the original Patent grant without underlining or bracketing. Since Certificate of Correction changes are part of the original Patent and were made before the reissue was filed, they should show up in the printed reissue Patent document as part of the original patent.
6. The substitute specification should physically incorporate the changes of all other amendments made in the reissue application including the amendment filed 3/6/02. The following markings must be used: (1) The matter to be omitted from the issued Patent, by reissue, must be enclosed in brackets; and (2) The matter to be added to the issued Patent by reissue, must be underlined.
7. Changes to the specification, other than to the claims, must be made by submission of the entire text of an added or rewritten paragraph, including the above noted markings, except that an entire paragraph may be deleted by a statement deleting the paragraph without presentation of

the text of the paragraph. The precise point in the specification must be identified where any added or rewritten paragraph is located.

8. Additionally, a separate listing of all claims should be provided. Each changed patent claim and each added claim must include the above noted markings in accordance with 37 CFR 1.173(b), except that a patent claim or added claim should be canceled by a statement canceling the claim without presentation of the text of the claim.

***Conclusion***

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ulka J. Chauhan whose telephone number is 571-272-7782. The examiner can normally be reached on Mon. through Fri., 9:30 a.m. to 4:00 p.m.

10. The Central FAX number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ulka J. Chauhan  
Supervisory Patent Examiner  
Art Unit 2671

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

<b>REISSUE APPLICATION DECLARATION BY THE ASSIGNEE</b>		Docket Number (optional)										
<p>I hereby declare that:</p> <p>The residence, mailing address and citizenship of the inventors are stated below.</p> <p>I am authorized to act on behalf of the following assignee: _____</p> <p>and the title of my position with said assignee is: _____</p> <p>The entire title to the patent identified below is vested in said assignee.</p> <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 2px;">Inventor</td><td style="width: 50%; padding: 2px;">Citizenship</td></tr><tr><td colspan="2" style="padding: 2px;">Residence/Mailing Address</td></tr></table> <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 2px;">Inventor</td><td style="width: 50%; padding: 2px;">Citizenship</td></tr><tr><td colspan="2" style="padding: 2px;">Residence/Mailing Address</td></tr></table> <p><input type="checkbox"/> Additional Inventors are named on separately numbered sheets attached hereto.</p> <table border="1" style="width: 100%; border-collapse: collapse;"><tr><td style="width: 50%; padding: 2px;">Patent Number</td><td style="width: 50%; padding: 2px;">Date of Patent Issued</td></tr></table>			Inventor	Citizenship	Residence/Mailing Address		Inventor	Citizenship	Residence/Mailing Address		Patent Number	Date of Patent Issued
Inventor	Citizenship											
Residence/Mailing Address												
Inventor	Citizenship											
Residence/Mailing Address												
Patent Number	Date of Patent Issued											
<p>I believe said inventor(s) to be the original and first inventor(s) of the subject matter which is described and claimed in said patent, for which a reissue patent is sought on the invention entitled:</p> <div style="border: 1px solid black; height: 50px; margin: 5px 0;"></div> <p>the specification of which</p> <p><input type="checkbox"/> is attached hereto.</p> <p><input type="checkbox"/> was filed on _____ as reissue application number _____ / _____</p> <p>and was amended on _____</p> <p style="text-align: center;">(If applicable)</p> <p>I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.</p> <p>I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56.</p> <p><input type="checkbox"/> I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b). Attached is form PTO/SB/02B (or equivalent) listing the foreign applications.</p> <p>I verily believe the original patent to be wholly or partly inoperative or invalid, for the reasons described below. (Check all boxes that apply.)</p> <p><input type="checkbox"/> by reason of a defective specification or drawing.</p> <p><input type="checkbox"/> by reason of the patentee claiming more or less than he had the right to claim in the patent.</p> <p><input type="checkbox"/> by reason of other errors.</p>												

[Page 1 of 2]

This collection of information is required by 37 CFR 1.175. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

*If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.*

<b>REISSUE APPLICATION DECLARATION BY THE ASSIGNEE</b>	Docket Number (Optional)
At least one error upon which reissue is based is described as follows:	
[Attach additional sheets, if needed.]	
<b>All errors corrected in this reissue application arose without any deceptive intention on the part of the applicant.</b>	
I hereby appoint:	
<input type="checkbox"/> Practitioners associated with Customer Number:	
<b>OR</b>	
<input type="checkbox"/> Practitioner(s) named below:	
Name	Registration Number
as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the United States Patent and Trademark Office connected therewith.	
Correspondence Address: Direct all communications about the application to:	
<input type="checkbox"/> The address associated with Customer Number:	
<b>OR</b>	
<input type="checkbox"/> Firm or Individual Name	
Address	
City	State Zip
Country	
Telephone	Email
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and that such willful false statements may jeopardize the validity of the application, any patent issuing thereon, or any patent to which this declaration is directed.	
Signature	Date
Full name of person signing (given name, family name)	
Address of Assignee	

## Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.